



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable George W. Cox
State Health Officer
Austin, Texas

Dear Sir:

Opinion No. 0-4044

Re: May public health nurses, assigned to Texas from United States Public Health Service and paid by the United States Public Health Service for service in defense areas, carry on public health nursing activities in these areas without obtaining a license to practice nursing in Texas provided these nurses have shown themselves to be registered nurses eligible for listing on the Civil Service records of the federal government?

We have your letter of September 23, 1941, requesting our opinion on the above question. In order to set forth the facts from which this question arises, we quote from your letter:

"The rapid expansion of health services in defense areas has necessitated special activities on the part of the Public Health Service to assist the various states. In line with this policy the Public Health Service has assigned to Texas certain doctors and nurses through courtesy of the Service, placed under the direction of the State Health Officer, but these individuals are selected by the United States Public Health Service from civil service rolls and are paid directly from federal sources for their services and their service must be considered of a temporary character since such nurses are eligible for transfer to other areas of need at any time. One such transfer has occurred.

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"Medical officers assigned to this State from the U. S. Public Health Service are not required to obtain a license to practice in Texas since this matter seems adequately covered by the State law. However, the State Board of Nurse Examiners has informed nurses so assigned that they must be licensed in Texas. This works a serious hardship since these nurses are assigned on an emergency basis and may be transferred frequently. . . ."

Title 71, Chapter 7, of the Revised Civil Statutes of 1925, prescribes the requirements for a person desiring to practice as a "graduate certified registered nurse" in Texas. One of the requirements is the payment of a fee of fifteen dollars to the State Board of Nurse Examiners. (Article 4519) Besides payment of the fee, said person must pass an examination prescribed by the Board (Article 4519), or hold "a registration certificate as a professional nurse from another State whose requirements are equal to those of Texas." (Article 4521)

Article 776 of the Penal Code of 1925 is as follows:

"No person shall practice nursing as or claiming to be a graduate certified registered nurse without a license or permit from the State Board of Nurse Examiners, which license or permit shall have been registered with the county clerk of the county in which he or she resides within a period of thirty days. A nurse who has received his or her license or permit according to law shall be styled a 'registered nurse,' and no other person shall assume such title or use the abbreviation 'R. N.' or any other to indicate that he or she is a graduate certified registered nurse; and any person violating any provision of this article or who shall make any false representations to said board in applying for a license shall be fined not less than twenty-five nor more than two hundred and fifty dollars."

Article 4523 exempts certain persons from the requirements of said Chapter 7 in the following language:

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"This law shall not be construed to apply to the gratuitous nursing of the sick by friends, nor any person nursing the sick for hire who does not in any way assume or profess to practice as a graduate certified registered nurse."

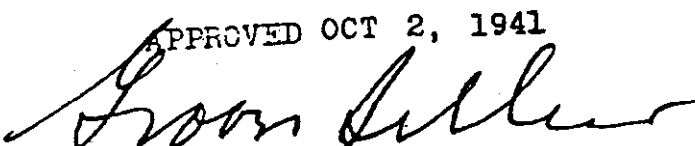
Article 777 of the Penal Code of 1925, in like language, exempts the same persons from the penal provisions above quoted.

We have been orally informed by you that the public health nurses referred to by you in the letter quoted above do not assume or profess to practice in Texas as graduate certified registered nurses; that they perform preventive services only; that they hold themselves out simply as "Public Health Nurses"; and that they use neither the title "Registered Nurse" nor the initials "R. N."

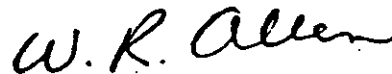
Under the facts stated, it is our opinion that the second exemption provided in Article 4528 of the Civil Statutes and Article 777 of the Penal Code applies to public health nurses employed and paid by the United States Public Health Service and by that Service assigned to work in defense areas in Texas under the direction of the State Health Officer; and therefore that such nurses are not required to obtain a State license to practice nursing in Texas.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED OCT 2, 1941

 FIRST ASSISTANT
 ATTORNEY GENERAL

By



W. R. Allen
 Assistant

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